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New York

President: Mr. Kerim ..... (The former Yugoslav Republic of Macedonia)

In the absence of the President, Mr. Rosselli (Uruguay), Vice-President, took the Chair.

The meeting was called to order at 3.10 p.m.

Agenda item 76 (*continued*)

Report of the International Criminal Court

Note by the Secretary-General (A/62/314)

Mr. Tavares (Portugal): At the outset, I would like to congratulate the President of the International Criminal Court.

Today I have the honour to speak on behalf of the European Union. The candidate countries of Croatia and the former Yugoslav Republic of Macedonia, Turkey, the countries of the Stabilization and Association Process and potential candidates Albania, Bosnia and Herzegovina, Serbia and Montenegro, the European Free Trade Association (EFTA) country Iceland, member of the European Economic Area, as well as Ukraine, Moldova, Armenia and Georgia align themselves with this statement.

The European Union (EU) is firmly committed to ending impunity for the most heinous crimes of concern to the international community. The International Criminal Court (ICC), created almost ten years ago, is one of the greatest achievements in the fight against impunity. The EU reiterates its strong support for the work of the Court.

The importance of the ICC should be seen within the wider context of international order. The Court is importantly placed to contribute to a more peaceful and just world, promoting respect for international humanitarian law, human rights and the rule of law. The European Union remains convinced that peace and justice are not conflicting goals, quite the contrary. In our view, sustainable peace cannot be achieved if the demands for individual accountability for the most serious international crimes are not duly addressed.

States have the primary responsibility for bringing offenders to justice. The ICC will only step in as a last resort, if States fail to carry out their duty. The ICC plays a significant role in ensuring accountability where national judicial systems have failed or are not willing or able to function. As for deterrence and prevention, the European Union views the ICC as an essential instrument for the prevention of genocide, crimes against humanity and war crimes.

The European Union expresses its appreciation to the Court for its report (A/62/314). The report clearly demonstrates that the Court is a living institution that has achieved substantial progress in its investigations and judicial proceedings. In this respect, the EU shares the Court's concerns in relation to the outstanding arrest warrants arising from the ICC's investigations in Darfur and Uganda. The EU urges all parties to work with the Court to ensure that these individuals are brought to justice as soon as possible. The EU emphasizes the obligation on the Government of Sudan to cooperate with the Court under the terms of Security Council resolution 1593 (2005).

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The 105 States party to the Rome Statute and the four situations before the Court represent significant achievements for a young Court. In this context, we would like to underline three key developments in the situation in the Democratic Republic of the Congo. The trial against Mr. Lubanga Dyilo is under preparation, and four victims participated in the hearing through their legal representatives. This was the first time in the history of an international criminal court that victims participated in proceedings in their own right, without being called as witnesses. In that connection, the EU also welcomes the arrest and transfer of Germain Katanga to custody of the ICC custody on 18 October.

The European Union echoes the Secretary-General's statement marking the fifth anniversary of the Court, in which he said that the ICC had already established itself as a centrepiece of a system of international criminal justice. The EU welcomes the Court's increased cooperation with other international and hybrid tribunals in particular the Special Court for Sierra Leone.

We all agree that the Court has taken its first well-grounded steps and that the report shows its achievements. The Court, however, relies critically on effective cooperation and assistance by States, as well as on the United Nations and other international and regional organizations.

As the ICC does not have an enforcement capacity, assistance is particularly needed for the arrest of suspects, the provision of evidence, the relocation of witnesses, the protection of victims and the enforcement of sentences. We stress the importance of cooperation by States Parties and non-States Parties with the Court, both in general and as regards specifically the execution of arrest warrants.

Furthermore, the EU appreciates the deepened cooperation with international organizations, in particular with the United Nations. The United Nations is a critical partner to the ICC in the field, as it may be in a position to provide the Court with evidence or logistical support. The EU invites the Secretary-General to make this support even more tangible on the ground.

The EU and the ICC concluded an agreement on cooperation and assistance in April 2006. The European Union encourages other relevant organizations, including the African Union, to formalize their cooperation with the Court.

The European Union is a strong and active advocate for the universality of the ICC and a dedicated defender of the integrity of the Rome Statute. The EU reiterates its call for the universal ratification of the Rome Statute, as well as of the Agreement on the Privileges and Immunities of the Court. The EU recalls its Common Position and Action Plan to support the Court, as well as the array of instruments at its disposal to promote the universality and integrity of the Rome Statute.

The EU also welcomes the ICC's intensified efforts relating to its outreach activities in the field. Reaching out to societies and people affected by crime is paramount for the successful discharge of the wider mandate of the Court. In that respect, the Court's activities are particularly important when it is reaching out to victims, who have a unique role under the Rome Statute.

The European Union wishes to thank Liechtenstein for organizing the intersessional meetings of the Special Working Group on the Crime of Aggression, held at Princeton. Those meetings have proved to be highly conducive to the preparation of provisions relating to the crime of aggression, the definition of which is of interest to the entire United Nations membership. The EU is committed to contribute to the finalization of the work on the crime of aggression and will support solutions that are consistent with the letter and the spirit of the Rome Statute and the United Nations Charter.

The EU would like to underline once again that cooperation and assistance by all of us, the United Nations and other international and regional organizations, remains vital if the Court is to successfully carry out its activities.

Mr. Sealy (Trinidad and Tobago): Trinidad and Tobago has the honour and the privilege to speak on behalf of the members of the Caribbean Community (CARICOM) that are States parties to the Rome Statute of the International Criminal Court (ICC) on the report of the Court contained in document A/62/314.

That report, which is issued in keeping with article 6 of the Relationship Agreement between the United Nations and the ICC, provides relevant information on the activities that the Court has carried

out during the past year as it has sought to discharge its mandate in accordance with the provisions of the Rome Statute. We acknowledge the role of the ICC as the only permanent international tribunal charged with the responsibility to prosecute individuals accused of committing the most serious crimes of concern to the international community, namely, genocide, war crimes, crimes against humanity and — when a definition of the crime is finally adopted pursuant to articles 121 and 123 of the Rome Statute — the crime of aggression.

On 1 July of this year, we celebrated the fifth anniversary of the entry into force of the Rome Statute. In a short period of five years, the Court has made substantial progress in putting the necessary systems in place to effect the prosecution of individuals accused of committing crimes within the jurisdiction of the Court, thus ensuring that justice is brought to the hapless victims of serious crimes, without prejudice to the rights of the accused.

In that regard, CARICOM States parties note with satisfaction the progress made by the Court in March 2007 with the confirmation of charges in the Thomas Lubanga Dyilo case, relating to the situation in the Democratic Republic of the Congo, and with the preparations for the commencement of his trial. CARICOM is further pleased to note the arrest and surrender of Germain Katanga earlier this month and the prompt commencement of pre-trial proceedings in his case.

However, we are concerned about the non-apprehension to date of those accused of committing crimes in the Darfur region of the Sudan and also in northern Uganda, despite the issuance of arrest warrants for those individuals. We are satisfied that the Prosecutor has conducted adequate investigations into those cases, and we wish to reiterate previous calls for the relevant authorities of the States concerned and other entities to cooperate with the Court in the execution of the arrest warrants and the surrender of the accused persons to face trial.

CARICOM States parties recognize and affirm the importance of cooperation between national justice and international criminal justice. The recent conclusion of the memorandum of understanding regulating the establishment and functioning of the Court on the territory of the Central African Republic is exemplary.

The jurisdiction of the ICC is, however, complementary to that of national courts. This principle, which is enshrined in article 1 of the Rome Statute, is a clear demonstration that the drafters of the Rome Statute were conscious of the sovereign right of States to prosecute their nationals accused of the commission of crimes within the scope of the Statute.

Correspondingly, we also recognize that States have a legal obligation to cooperate with the Court in several areas, including through the execution of arrest warrants, the surrender of accused persons, the transfer of prisoners, the enforcement of sentences and the protection and relocation of witnesses. In that respect, we call upon all States parties that have not yet done so to enact comprehensive legislation to give domestic legal effect to their binding legal obligations under the Statute. The enactment of implementing legislation would not only ensure that States have the legal basis for the prosecution of those accused of the commission of crimes domestically, in keeping with the well-known principle of law *Nulla poena sine lege*, but would also assist in negating any possible challenges to the jurisdiction of the Court in instances where a State has referred a matter to the Court. We also call on States parties and others to ratify as soon as possible the Agreement on the Privileges and Immunities of the ICC so that the Court can perform its work in their jurisdictions in an unencumbered manner.

We are encouraged by the steps taken by the Court to meet with several individuals, organizations and groups, including representatives of the African Union and of African States, in the context of the relationship agreement between the ICC and the African Union. Additionally, we welcome with appreciation the signing of the Headquarters Agreement between the International Criminal Court and the Kingdom of the Netherlands, which defines the relationship between the Court and the host State.

Over the past year, the Court has shown great resolve in becoming a truly global judicial institution. In addition to welcoming five new States parties — including Saint Kitts and Nevis, of the CARICOM region — the Court has embarked on an enhanced outreach programme. That has led to a greater awareness of the role of the Court, especially in the situation countries, thereby reducing any misconceptions concerning its operations, while also enhancing its legitimacy.

The preamble to the Rome Statute contemplates cooperation between the Court and the United Nations, while recognizing the independence of the Court. Consequently, we note with satisfaction the contacts made between officials of both institutions during the past year on matters germane to their respective work programmes. International confidence in the work of the Court was also strengthened with the conclusion of the memorandum of understanding between the Court and the Special Court for Sierra Leone. Through the provision of assistance for the conduct of the Charles Taylor trial, the ICC has demonstrated its commitment to assist in the fight against impunity in any part of the globe.

The sixth session of the Assembly of States Parties to the ICC will be held here at United Nations Headquarters from 30 November to 16 December 2007. We are hopeful that attendance during this session of the Assembly of States Parties will surpass that of all previous sessions because all 105 States parties and all signatory States and observer States are represented at United Nations Headquarters in New York. This will be an opportune moment for the continuation of efforts aimed at universalization of the Rome Statute.

Included among the items on the agenda of the forthcoming session of the Assembly of States Parties is the election of judges to fill the judicial vacancies occasioned by the retirement of three judges, including Judge Hudson-Phillips from Trinidad and Tobago. The Government of Trinidad and Tobago has announced, and CARICOM has endorsed, the candidature of retired Justice of Appeal Jean Permanand, a person of high moral integrity and a distinguished jurist with competence in criminal law and procedure, to fill one of those three vacancies.

CARICOM States parties are of the view that the International Criminal Court is an international judicial institution of which the international community can be justly proud. These States will continue to steadfastly support the ICC and will encourage other States, including CARICOM member States, to adhere to the Rome Statute since we are firmly convinced that it is only through the effective functioning of an institution such as this that we can put an end to the culture of impunity for these grave crimes of concern to the international community and bring peace and stability to countries where these heinous crimes have been committed.

Mr. Van Bohemen (New Zealand): I have the honour to speak on behalf of Canada, Australia and New Zealand (CANZ). We wish to thank Judge Philippe Kirsch, the President of the International Criminal Court (ICC), for his positive and direct presentation of the report on the work and situation of the Court.

Since its creation, just five years ago, the ICC has made important progress. There are now 105 States parties to the Rome Statute of the ICC. The Office of the Prosecutor is currently investigating crimes in four situations. Arrest warrants have been issued against alleged perpetrators in three of these situations. In January this year, the Court confirmed charges of war crimes against Thomas Lubanga Dyilo, a former Congolese militia leader. We await his trial, the first ever before the International Criminal Court, due to start in early 2008.

CANZ welcomes and commends the recent action by the Government of the Democratic Republic of the Congo to surrender Germain Katanga to the Court. This surrender provides a timely example of the results that can be achieved with the cooperation of the situation country.

Canada, Australia and New Zealand acknowledge, however, that the ICC continues to face major challenges. Perhaps the most significant of these arises from the fact that the Court is heavily reliant on support and assistance from States and, on occasion, from international organizations and others, in order to fulfil its mandate under the Rome Statute. This is well-illustrated by the current situation with the six outstanding arrest warrants for the Darfur and Uganda investigations. The ICC can succeed only if perpetrators believe it has the power to act. This requires the cooperation of all States to give effect to arrest warrants and assist with other ongoing investigations.

CANZ calls on the Governments of Sudan and Uganda to play their part in the ICC's work to bring an end to impunity for the most serious international crimes. In particular, we urge the Government of the Sudan to take all steps to arrest Minister of State for Humanitarian Affairs, Ahmad Harun, and militia leader, Ali Kushayb, and transfer them to the Court for trial. Acting on these arrest warrants will demonstrate not only respect for the rule of law but also support for international criminal justice generally.

Canada, Australia and New Zealand consider that support for and cooperation with the Court is critical to its success, although such support can take a variety of different forms. For example, New Zealand recently signed an agreement with the ICC to provide specific cooperation. We would encourage all States parties to consider what practical measures they can take to support the work of the Court.

The ICC has continued to develop cooperative relationships with a number of international courts and tribunals. A unique and unprecedented level of cooperation exists between the Court and the Special Court for Sierra Leone. We welcome the assistance the ICC is providing to this Special Court in relation to the trial of Charles Taylor. We see this as helping to achieve the broader goal of combating criminal impunity which underpins the very establishment of the ICC.

Universal ratification of the Rome Statute is also crucial to the ICC's success. If we are to ensure that the perpetrators of the most world's most egregious crimes are denied a safe haven, we must step up our collective efforts to promote the universality of the Rome Statute. In that regard, Canada, Australia and New Zealand welcomed, at last year's assembly of States parties, the adoption of the plan of action for achieving universality and full implementation of the Rome Statute. Since then, we have also welcomed Japan as a party to the Rome Statute. We hope that Japan's accession will encourage additional States to join, particularly States from Asia.

Canada, Australia and New Zealand have continued their efforts at the regional level to encourage further ratifications. For example, Australia recently took the opportunity presented by the ICC's Prosecutor's visit to Australia in August, to convene a regional seminar attended by 70 officials from the Asia-Pacific, including ministers and senior Government officials, to promote accession to the Rome Statute.

Since September 2000, Canada's International Criminal Court and Accountability Campaign, funded by Foreign Affairs and International Trade Canada, has provided more than $4.3 million in funding to support events and projects that promote ratification and implementation of the Rome Statute, assist with the effective functioning of the Court and other international criminal tribunals and provide education and outreach related to the ICC and other international criminal tribunals.

CANZ will continue to provide the ICC with our strong and unwavering support. We call on all Member States to do the same.

Mr. Wenaweser (Liechtenstein): I would like to thank the President of the International Criminal Court (ICC), Mr. Philippe Kirsch, for presenting the report of the ICC to the General Assembly today.

The Court has continued to make important progress in its operations and judicial work. This is evidenced, in particular, by the situation regarding the Democratic Republic of the Congo. We note with satisfaction the recent surrender of a second indicted person in that situation, which will give the ICC a further opportunity to prove its excellence.

We commend all organs of the Court for their highly professional, independent and impartial work over the last year. Indeed, we have no doubt that the ICC is working in the manner envisioned by the drafters of the statute and its activities in The Hague and in the field clearly have an impact on the situations under consideration, but also a preventative impact in general.

As outlined in the ICC's report, the Court continues to rely and depend on cooperation by States and international organizations with respect to the operational aspect of its work, in particular, arrest and surrender. We note with great concern that currently six arrest warrants are still awaiting their execution. For some of them, this has been the case for more than two years. This state of affairs is unacceptable. We call upon all States, parties and non-parties alike, as well as on other relevant actors, such as the Security Council, to consider the consequences of such inaction at this juncture. The commitment to end impunity for the worst crimes is as relevant today as it was at the time of adoption of the Rome Statute.

In Rome, we sent a clear signal to past and potential future perpetrators of such crimes that they will not get away with their actions. The Statute has, furthermore, given a firm legal answer to what some like to refer to as the "peace versus justice" dilemma, in the form of a legal obligation to cooperate with the ICC, in particular, regarding arrest and surrender. This obligation is not negotiable and must be fully implemented.

As far as the United Nations is concerned, cooperation is required at the technical level, as regulated by the United Nations-International Criminal Court Relationship Agreement, as well as at the political level.

The Security Council has a very important role to play in this respect. Both the Rome Statute and the Relationship Agreement envisage a mutually beneficial relationship between the ICC and the United Nations, reflecting the nature of the Court as an institution that promotes and delivers justice, based on the principle of complementarity, and thereby contributes to peace and security.

Liechtenstein has always strongly supported the International Criminal Court, and continues to do so as the Court begins to leave its mark in the system of international institutions. We welcome Japan as the 105th State party to the Rome Statute and call upon other States that have not yet ratified the Statute to consider doing so in the near future. We fully respect the approach of some States that continue to evaluate the merits of ratification or accession and the difficulties attached thereto, and encourage them to enter into a dialogue with the Court and with other States parties with a view to addressing any concerns. While the number of States parties will continue to rise, it can already be clearly stated that the entry into force of the Statute has brought about a paradigm shift towards the rule of law that is irreversible.

We look forward to the sixth session of the Assembly of States Parties to the Rome Statute, to be held here at Headquarters from 30 November to 14 December 2007, and we hope that all States will use this opportunity to participate actively, as members or as observers. In this respect, we will once again place great emphasis on the work on the definition of the crime of aggression. Our mission in New York organized for the fourth time an intersessional meeting on the crime of aggression at Princeton University in June 2007, where further progress was made on this important question. We look forward to the continuation of this constructive dialogue among States parties, as well as non-States parties, as we get closer to the Review Conference.

Mrs. Nguyen Thi Thanh Ha (Viet Nam): Five years ago, the Rome Statute of the International Criminal Court (ICC) entered into force, marking an historic event in the development of international criminal law. My delegation today thanks Judge Philippe Kirsch, President of the ICC, for having presented the Court's report, submitted to the General Assembly in document A/62/314. My delegation also shares the view expressed in paragraph 4 of the report, which states that

> "By helping to put an end to impunity for the perpetrators of the most serious international crimes, the Court is intended to contribute to the prevention of such crimes and to the maintenance of peace and security".

By 1 October 2007, the number of States parties to the Rome Statute reached 105, a figure demonstrating the strong support of United Nations Member States for the Court. The activities of the ICC, as shown in the report, once again reaffirm the view of the United Nations Secretary-General that the Court is a centrepiece of a system of international criminal justice. So far, four situations have been referred to the Court. The vast amount of communications relating to purported crimes that the Court has been receiving also testifies to its increasing prestige. Cooperation between the ICC and the United Nations, States, international organizations and civil society continues to be promoted.

While taking note of the substantial progress made by the International Criminal Court, it should be emphasized that the Court's jurisdiction will not be complete until the crime of aggression is defined and included in the Rome Statute. The Special Working Group on the Crime of Aggression of the Assembly of States Parties to the Rome Statute has made great efforts to define the act of aggression and the conditions for the Court to exercise jurisdiction over this crime. The sixth session of the Assembly of States Parties, to be convened in New York at the end of this month, is expected to offer another opportunity for fruitful discussions of this important, unsettled part of the Court's jurisdiction.

Viet Nam has been following the development of the ICC with great interest. We have stated our support many times for an independent and objective international criminal court that complements national juridical systems and operates in accordance with the fundamental principles of international law. In fact, the competent authorities in Viet Nam are seriously studying the possibility of acceding to the Rome Statute. We take particularly great interest in the work

of the Special Working Group on the Crime of Aggression and support General Assembly resolution 3314 (XXIX), adopted at its twenty-ninth session, as an important guide to the Group's substantive work.

Mr. Maurer (Switzerland) (*spoke in French*): Switzerland would first like to express its gratitude to President Philippe Kirsch for presenting the third annual report of the International Criminal Court (ICC) (A/62/314), covering the main developments in the Court's activities and cooperation between the Court and the United Nations. Switzerland would also like to express its appreciation to the Court's officials and staff for their outstanding work in carrying out the colossal task bestowed upon them.

Switzerland welcomes the positive cooperation between the Court and various United Nations offices, as well as the Court's institutional support to the Special Court for Sierra Leone in hosting the proceedings of the Charles Taylor case. It also welcomes the support to the ICC from several States, in particular the various bilateral arrangements that have been concluded with the Court on specific issues of cooperation.

As mentioned in the report, the Court is up and running, and four situations have been referred to it. Switzerland welcomes the important progress made in 2007 — namely, the first referral of a case, Prosecutor v. Thomas Lubanga Dyilo, to the trial stage, and the transfer to The Hague of Germain Katanga by the Democratic Republic of the Congo. The very fact that after such a short period of time, the Court is already investigating and has started legal proceedings in four situations confirms that the establishment of a permanent international criminal court was a very much needed development in international law. States, as well as the United Nations as a whole, worked very hard to reach an agreement on the Statute of the Court and to achieve its establishment. Five years after its creation, the ICC has already come a long way. The efforts of States and the United Nations to support and promote the Court's work should not, however, waver. On the contrary, the international community and States individually must, more than ever, strive to pursue these efforts.

Switzerland wishes to stress the positive effects of the Court's activities in the field. One notable example concerns the developments in northern Uganda. Following the issuance of arrest warrants by the Court, the humanitarian situation has improved considerably, and peace negotiations have become possible.

Switzerland is convinced that there cannot be lasting peace and security worldwide without international justice. The international community has very high expectations for the Court. Indeed, the Court is expected to play a central role in the fight against impunity and in providing justice — two elements that are crucial in reaching lasting peace and security, in particular in post-conflict situations. This task is vital.

The ICC was provided, through the Rome Statute, with the necessary jurisdiction and legal tools to try those responsible for the most heinous crimes in cases where States that have jurisdiction over such crimes are unwilling or unable to complete such proceedings themselves.

The Court is not lacking the financial resources to carry out its mandate at this stage, despite some remaining arrears. What the Court is lacking, however, are the enforcement tools necessary to accomplish its tasks. The Court therefore relies heavily on the support and cooperation of States. As President Kirsch rightly pointed out in his report, States are the enforcement pillar of the international criminal justice system.

Switzerland would like to stress the important role States must play in supporting and cooperating with the International Criminal Court. It is the responsibility of the States, under the Rome Statute and in line with the aims of the United Nations Charter in terms of upholding peace and security, to support and fully cooperate with the Court.

Switzerland strongly believes that the relationship between States and the Court is based on reciprocity. Not only do States have high expectations for the Court, but the Court also has high expectations vis-à-vis States. The Court will be able to meet these expectations and fulfil its mandate only if States provide their full support.

Switzerland would also like to recall that full cooperation with the Court must exist at all stages, whether during the investigation period or when enforcing decisions of the Court, notably arrest warrants. Furthermore, cooperation is not only needed from States directly concerned by the cases under the Court's scrutiny, but also from other States. Indeed, as was pointed out in the third annual report, investigating

the situations referred to the Court has involved activities both on the territories of the four relevant States and in over 25 other countries during the reporting period. It is therefore crucial that all States, and not merely those directly involved in cases before the Court, cooperate with the Court. In this regard, cooperation provided by non-States parties is not only provided for under the Statute, it is also particularly welcome.

Finally, Switzerland fully agrees with the report's view according to which "[t]he aims of the States Parties to the Rome Statute in establishing the Court overlap with the purposes and principles of the United Nations" (*A/62/314, para. 4*). This message supports the idea that the Rome Statute should be of universal scope. Switzerland therefore calls upon all States that have not yet done so to join the Rome Statute as soon as possible.

Mr. Manuel Pérez (Cuba) (*spoke in Spanish*): My country has supported and will continue to support the establishment of an impartial, non-selective, efficient and just international criminal court that complements the national systems of justice and is truly independent, hence rid of subordinations to political interests that could distort its essence.

The International Criminal Court's lack of independence is of concern, considering the way in which its relations with the Security Council have been defined. Article 16 of the Rome Statute grants power to the Council to suspend investigations or indictments carried out by the Court, and article 5 of the same text purports to regulate in the future the Criminal Court's jurisdiction based on the determination by the Security Council that an act of aggression has been committed by a State. These two elements call into question the true efficiency and independence of the Court in its work.

Also of concern are actions by the United States aimed at signing bilateral immunity agreements exempting its citizens from the International Criminal Court's jurisdiction. Such agreements not only preclude handing over to the Court a great many persons, including former and current Government officials, military personnel and United States citizens in general, but they do not include that country's obligation to investigate and try those persons. Cuba denounces such actions, which are clearly aimed at weakening the efficiency and credibility of the ICC and dodging the system of international criminal responsibility of its citizens, in open violation of the rules of international law.

The Cuban delegation has participated with particular interest in all phases of the establishment of the International Criminal Court and recognizes the relevance of the Rome Statute for international law. However, basic expectations set at the beginning of the process, such as the elaboration of a definition of the crime of aggression, have not yet been met.

We hope that the Special Working Group on the Crime of Aggression, open to all States Members of the United Nations on an equal footing, can carry out its work satisfactorily, elaborating a broadly accepted definition of this crime under which its perpetrators can be tried and condemned. In this regard, we consider that the Assembly of States Parties should provide more possibilities for the functioning of the Special Working Group, assigning it more time within its agenda and convening intersessional meetings, as required.

Once again, the Cuban delegation was not able to participate in the informal meeting of the Special Working Group, which was held in Princeton, because the United States authorities denied without justification permission for two Cuban representatives to travel beyond the 25-mile radius, measured from Columbus Circle, despite the fact that permission was requested within the deadline established for it. Officials from the Cuban Mission to the United Nations are subject to this discriminatory restriction, which is in violation of the Headquarters Agreement and the rules of diplomatic law.

For Cuba, a small country blockaded economically and financially, which has endured countless aggressions by the greatest Power that has ever existed, it is very difficult to take the decision to join the Rome Statute without there being a clear and precise definition of the crime of aggression. We have upheld and continue to uphold a constructive position towards the establishment of an international criminal justice system that is truly impartial, efficient, independent and complementary to national jurisdictions. In this regard, we have followed with interest the evolution and functioning of this new institution, inter alia, through our participation as observers in meetings of the Assembly of States Parties to the Rome Statute.

My delegation reaffirms its will to contribute to the implementation of a truly efficient international criminal justice system, in accordance with the rules of international law and, in particular, the Charter of the United Nations.

Mrs. Juul (Norway): Norway welcomes the third annual report of the International Criminal Court (ICC) (A/62/314) and would like to thank the President of the ICC, Judge Philippe Kirsch, for his presentation.

Norway is a staunch supporter of the ICC, and we are very pleased to see the progress it has made during the past year. This year, the ICC celebrated the fifth anniversary of the entry into force of the Rome Statute. In spite of its young age, the Court is already steadily integrating itself into legal systems, international institutions and international relations.

The relationship between the ICC and the United Nations is of great importance. Ending climates of impunity requires determined cooperation by interlocutors who have international peace, justice and security as their common goals and their common ambition. The ICC is independent, but it has strong legal, historical and operational ties with the United Nations. The United Nations seeks to promote peace and justice based on human rights. Those are distinct but closely related objectives. They may be difficult to achieve simultaneously, but we have to strive for their achievement. In its quest for the attainment of those objectives, the ICC is an effective and important tool for ending impunity and promoting the rule of law.

The ICC can bring perpetrators of mass atrocities to justice when national systems are not able or willing to do so. The principle of complementarity provides a safety net. That is why the success of the ICC should never be evaluated solely on the basis of the number of cases it hears. We must remember that the mere existence of the Court is having an impact on national systems, which are increasingly geared towards prevention and prosecution.

The success of the Rome Statute should therefore be measured in terms of the overall decrease in impunity for such crimes, not in terms of the number of defendants brought to The Hague. Moreover, whenever national authorities investigate, prosecute and pass judgement in cases concerning serious international crimes, that in itself reaffirms the core objective of the ICC: that perpetrators of such crimes will be held accountable.

The interplay between the Court and the United Nations is made clear in the Rome Statute itself and in the Relationship Agreement between the two parties. The preamble of the Rome Statute reaffirms the purposes and principles of the Charter of the United Nations, in particular that all States shall refrain from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations. The ICC aspires to act in accordance with those purposes and principles.

That is also apparent from the role that the Security Council is given in the Statute. Referral by the Security Council is one of the ICC's trigger mechanisms. The Security Council can also defer investigations or prosecutions in a resolution adopted under Chapter VII of the Charter.

It is with great satisfaction that we welcome the strengthening of the relationship between the ICC and the United Nations. We urge all States and international organizations to support the Court and the United Nations in their efforts to achieve their common goals. Justice is also an important building block for peace, and the international community must ensure that the foundation for peace is solid and that it stands the test of time.

Norway welcomes the Organization's support in facilitating the ICC's operation in the field. We are also pleased to note that, under the arrangements set out in the Relationship Agreement, the United Nations provided facilities and services for the resumed fifth session of the Assembly of States Parties, which was held at Headquarters at the beginning of the year. The sixth session will also be held at Headquarters, from 30 November to 14 December.

Norway welcomes the plan of action for achieving universality and full implementation of the Rome Statute, and we will contribute actively to the achievement of its full implementation. We are pleased to note that today, 105 States are parties to the Rome Statute. That is also a geographical reflection of the regions represented in the General Assembly. In that respect, it is a great pleasure to welcome Japan as the most recent entry on the list of States parties. That is an important step towards universality. The number of States parties is rising year by year, and Norway strongly hopes that the ICC will enjoy universal adherence in the future.

The ICC depends on the cooperation of States parties. All States parties must do their utmost to provide the ICC with the best possible working conditions. Norway expects States that have legal obligations under the Statute or that have entered into cooperation agreements with the ICC to fulfil their obligations and to demonstrate their commitment to justice in practice. Those States have a responsibility to proclaim the Court's true nature and its vital importance in the pursuit of justice.

It is with grave concern that we note that six arrest warrants are outstanding: two pertaining to the situation in Darfur and four pertaining to the situation in Uganda. We urge all the States involved to fulfil their responsibility to make those warrants effective.

It is also important that non-States parties give the ICC their support. We were pleased to receive the news that Ukraine has acceded to the Agreement on the Privileges and Immunities of the ICC. It is the first non-State party to do so, and we encourage other States to follow that example.

The interplay among the various courts and tribunals in the international criminal justice system is important for the development of sustainable jurisprudence. We therefore welcome the memorandum of understanding between the ICC and the Special Court for Sierra Leone. The ICC is providing assistance to enable the Special Court for Sierra Leone to conduct the trial of Charles Taylor in The Hague. We would also like to draw particular attention to the ICC's Legal Tools Project. That practical and analytical tool, which is under continuous development, is funded by the Norwegian Government, inter alia. It aims to rationalize the way in which a number of institutions and individuals work with regard to international crimes. The goal is to increase the quality of such work flows and to increase general access to precise information concerning international criminal law.

Finally, I would like to reaffirm Norway's firm and long-standing commitment to the integrity of the Rome Statute and to an effective and credible International Criminal Court. We believe that the ICC should enjoy the broadest possible support on the part of all States. We also believe that the long-term interests of all nations, irrespective of size, region or political orientation, are served by strengthening the rule of law and promoting justice. We all share the universal values related to the protection of human dignity. Such protection is enhanced through concerted action to suppress the most serious crimes that concern the international community as a whole.

Mr. Chávez (Peru) (*spoke in Spanish*): I wish to thank Judge Philippe Kirsch, President of the International Criminal Court (ICC), for the comprehensive and detailed introduction of his annual report on the work of the Court (A/62/314).

The International Criminal Court was established not only to be an effective tool for ensuring that the perpetrators of the most serious crimes are punished, but also to serve as an element of prevention and deterrence with regard to the commission of such atrocities. Likewise, the assistance provided by the ICC to the Special Court for Sierra Leone in the trial of Charles Taylor, former President of Liberia, is an example of the Court's substantial contribution to a broader system for promoting international criminal justice and an international system in which the rule of law is paramount.

The progress made by the ICC during the reporting period has been significant in terms of both investigations and judicial proceedings. In particular, we highlight the surrender of Germain Katanga to the Court, where he will be prosecuted for alleged commission of crimes against humanity and war crimes. We note the cooperation given by the Democratic Republic of the Congo in this context, as well as the decision of the Prosecutor to open an investigation into the situation in the Central African Republic.

As its President has said, for the International Criminal Court to fulfil its mandate, it must receive the support and cooperation of States, of international organizations and of non-governmental organizations, among other possible sources of support. Peru therefore urges all States to cooperate so that the arrest warrants issued by the Court may be executed. Also, we believe that the United Nations, including the Security Council, should offer assistance in this regard within the existing legal framework of cooperation.

In this regard, we regret that, to date, none of the members of the Lord's Resistance Army for whom arrest warrants have been issued have been arrested. Also, because the situation in Darfur was referred to the Court by the Security Council in 2005, through its resolution 1593 (2005), there is a legal obligation to cooperate with the Court based on the Charter of the

United Nations. That is why we hope that these arrest warrants will be promptly executed. The Security Council, for its part, must maintain the relevance of its decisions by ensuring compliance.

We are pleased with the steps taken to strengthen international cooperation, especially with the United Nations, above all on regarding facilitating the Court's activities in the field — a particularly sensitive area where enormous challenges arise. The safety of Court personnel, witnesses and victims is a matter of constant concern. We urge all international organizations which are present in the field to join their efforts to those of the Court.

In conclusion, I would like to recall that Peru strongly supports the fight against impunity. We thus reaffirm at this time our commitment to contribute so that the International Criminal Court can effectively fulfil its mandate and promote the integrity of its Statute.

Mr. Kanu (Sierra Leone): We are making the following remarks, born of our national perspective, which has been shaped through the experience we have gained through the operations of an international criminal court on our territory, that is, the Special Court for Sierra Leone.

Before doing so, we would like to express our heartfelt welcome to those States that have joined the Rome Statute since the International Criminal Court's (ICC) report to this body last year. Universality remains a critical goal if we wish to see the International Criminal Court reach its full potential as a key actor in the fight against impunity worldwide and as an important and necessary component of lasting peace. We look forward to welcoming more new States parties in the future, and we continue to urge our friends that have not yet signed or ratified the Rome Statute to do so as soon as possible.

The report delivered this morning by Court President Kirsch (see A/62/PV.42), whom we thank once again for his ongoing commitment and his leadership of the Court, shows that, in many respects, tremendous progress has been made. The arrest and transfer of Germain Katanga to face trial for crimes allegedly committed in the Democratic Republic of the Congo is surely an important step for which we have all been waiting. We very much hope that this second arrest will form the centre of a swiftly moving snowball, around which more arrests will come, particularly those of accused whose warrants have been outstanding for such a long time now.

Like many others, we remain concerned that there are fugitives from justice who continue to escape facing international criminal proceedings, and we fervently hope that this situation will not be allowed to continue, whether it be Mladic and Karadzic continuing to evade the International Criminal Tribunal for the Former Yugoslavia or the six individuals for whom there are outstanding arrest warrants at the ICC.

The International Criminal Court may be the bold new centrepiece of the international criminal justice system, but it needs cooperation and support in order to flourish and to retain its strength and vitality. The real deterrence value of the ICC, and indeed of any criminal justice institution, is the likelihood of enforcement of its processes and the legal norms and proscriptions that are its foundation. The critical contribution of justice and accountability to assisting societies to reach lasting, sustainable and prosperous peace can be truly realized only when all components of conflict resolution and post-conflict reconstruction are given sufficient space to do their job.

Sierra Leone recognized this with the Special Court, to the extent that our parliament decided that orders of the Special Court should have direct application in Sierra Leone, translating into law the level of commitment to cooperation that the Special Court needed then and that the ICC needs now. We call on all States to cooperate with the ICC, in particular through enforcing the outstanding arrest warrants, and in so doing, to strengthen the international criminal justice system and its potential to deter such horrendous crimes.

We continue to welcome the emphasis the Court is putting on its strategic vision and the work it is doing to conceptualize, refine and present that vision. The primary purpose of the International Criminal Court, indeed the raison d'être of the international criminal justice system as a whole, is to provide justice and redress to the thousands of men, women and children who have been victims of the most serious crimes that prick the conscience of humankind. It is difficult to do that from thousands of miles away from the scenes of the crimes, and we must recognize and commend the efforts being undertaken to ensure that affected populations understand, engage with and feel a stake in the Court's work.

For this reason, we welcome the emphasis in this latest report (see A/62/314) on the ICC's outreach work. The prominence given to this issue underscores what Sierra Leone has learned through its own experiences with the Special Court, which we hope will stand as a lesson for all international courts and tribunals: outreach is a core function of such a court, and it is an operational necessity. We therefore continue to insist that the Court's outreach programme be given top priority and urge the Court to continue to develop its strategic vision, to intensify its efforts for Darfur and to implement its plan for outreach in the Central African Republic as a matter of utmost urgency.

As we have said before, we have a strong preference for proceedings to be held in the countries or regions where the crimes took place, and we trust that this remains an important goal also for the Court. We continue to look forward to further developments in this respect.

The presence of Court President Kirsch here today is an important, outward symbol of the ever-growing relationship between the United Nations and the International Criminal Court. We have always said that the cooperation and support of the United Nations will be of critical importance for the International Criminal Court to become a fully effective international criminal justice institution.

We can now see in action how important it is to nurture and develop that relationship, particularly with the support the United Nations provided for the arrest and transfer of Mr. Katanga. We look forward to the continuing dialogue and cooperation between the Court, international and regional organizations and all other actors around the world who remain committed to ensuring that the Court can reach its full potential.

Allow me to conclude by restating our hope and desire that one day, the building blocks of international criminal justice, which we are discussing here today, will be at the foundation of a world in which everyone can rest assured that those who commit war crimes, crimes against humanity and genocide can run but cannot hide: they will surely be brought to justice.

Mr. Argüello (Argentina) (spoke in Spanish): Argentina wishes to convey its appreciation and gratitude to the President of the International Criminal Court, Mr. Philippe Kirsch, for his presentation of the third report of the Court (see A/62/314) to the General Assembly.

Several positive elements of the report should be highlighted. In 2002, the Rome Statute had received 60 ratifications; this year, 105 States are parties. That shows that the efforts towards universality and full application of the Rome Statute are achieving results.

Also, referring the situation in Darfur, the Sudan, to the International Criminal Court was a historic decision, from both a legal and a political standpoint. That precedent shows that there cannot be peace, security and reconciliation if those who violate human rights continue to enjoy impunity in countries in conflict or during the peacebuilding period. That connection was underlined by Argentina on numerous occasions during its membership of the Security Council in 2005 and 2006.

Another development that shows that the Court is fully operational has been the arrest by the authorities of the Democratic Republic of the Congo of Germain Katanga and his subsequent transfer to the International Criminal Court in October 2007 on charges of war crimes and crimes against humanity. Thus, two persons have now been transferred to the Court on charges that fall within its jurisdiction.

Moreover, the decision of the Prosecutor in May to open a new investigation into the situation in the Central African Republic, along with the situation in Uganda and the two aforementioned cases, sends a clear message to the perpetrators of crimes committed in the past and to potential perpetrators in the future: even if they are not brought to justice in their own countries, there is still the credible possibility of international prosecution. Securing the detention of the wanted persons who remain at large is fundamental to reaching that goal and thus maximizing the Court's influence.

In that sense, we must not forget that there are still six outstanding arrest warrants. States parties and non-parties alike must cooperate with the Court with regard to the execution of arrest warrants. As the Court does not have its own police, the cooperation of States, United Nations regional organizations and other actors is essential to achieving the objectives stated by the States parties in the preamble to the Rome Statute.

In that regard, in late 2006, Argentina implemented the provisions of the Rome Statute and

established the relations of cooperation between Argentina and the Court in its national legislation and ratified the Agreement on Privileges and Immunities of the International Criminal Court, allowing the Court to act without limitation in our country's territory.

We also welcome the headquarters agreement with the host country, the Netherlands, and the full functioning of the Court's New York liaison office with the United Nations, which will help promote cooperation between the two organizations. We hope for greater support by the Security Council through broader mandates for peacekeeping operations in places where there are situations under investigation by the Court, in order to support the Court in its task.

Finally, in view of the fact that the purposes and principles of the Rome Statute of the International Criminal Court reflect those of the Charter of the United Nations and are thus universal, Argentina calls upon all States that have not yet done so to accede to and ratify the Rome Statute, in order to guarantee universality in the fight against impunity.

Mr. Muharemi (Croatia): I take pleasure and pride in the fact that we can once again welcome His Excellency Judge Philippe Kirsch, President of the International Criminal Court (ICC), to the General Assembly. As Croatia aligns itself fully with the statement delivered by the representative of Portugal on behalf of the European Union, please allow me to highlight just a few points that, in our opinion, deserve the full attention of the United Nations community.

The annual report presented today (see A/62/314) reflects the steady progress that the Court has achieved over just five years of its existence. We are proud of the impact it has achieved thus far. Its establishment, which was our common endeavour, was not an end in itself. It remains our common responsibility to effectively prevent conflicts, protect and promote human rights and uphold international humanitarian law and the rule of law in general.

Without putting an end to impunity for the most serious international crimes, those efforts will remain incomplete. Nothing can serve the interests of justice better than a functioning and credible Court. It is reassuring to note that, in all aspects of its mandate, the ICC has made its presence felt.

However, the experience of the ad hoc criminal tribunals has made it all too clear how dependent justice is on the goodwill, not just of States, but of other international actors as well. State cooperation and support are indispensable for making justice operational. We believe it is equally important that other actors — both regional and global, beginning with the United Nations — do not lose sight of the ICC dimension when dealing with issues of peace and security that are of relevance to the Court's mandate.

The Court does not operate in a textbook reality, and it would be wrong to contemplate its mandate without paying attention to the ways its existence and actions can influence the decision-makers on the ground. However, the ICC is not a political tool. It is the expression of all our collective will, embodied in a treaty. It is first and foremost a judicial body that deals with individual criminal accountability. That is of paramount importance, because all crimes are individual. Timely and just prosecution and punishment are an essential ingredient of sustainable peace.

Mr. Jevremović (Serbia): I wish to thank the President of the International Criminal Court, Judge Philippe Kirsch, for his presentation of the report of the International Criminal Court (see A/62/314) today. With four situations before the Court, it is now evident that the International Criminal Court has evolved into a pillar of international justice, promoting the values of international humanitarian law and furthering the ongoing quest for a world based on justice and accountability.

The accession of Japan to the Rome Statute as its 105th State party is yet another significant step towards achieving the universality of the Court and its noble goals, and it should be commended as such. We therefore wish to call on States to continue to support universal ratification of the Rome Statute.

The Republic of Serbia fully aligns itself with the statement made by the representative of Portugal on behalf of the European Union but would like to reiterate certain points from a national perspective.

My country is one of the founders of the International Criminal Court and, as such, it has committed itself to incorporating all its obligations under the Rome Statute into its domestic legal system. The new constitution of the Republic of Serbia is but one of the documents that bear testimony to that process.

As my country was among the first to have ratified the Rome Statute, I am pleased to recall the activities that we have undertaken in order to facilitate the work of the Court. The Republic of Serbia was among the first countries to ratify the agreement on Privileges and Immunities of the ICC. At this moment, we are in the process of negotiating an agreement on persons charged by the ICC serving their prison sentences in Serbia. An initiative has been launched for concluding an agreement on witness relocation. Let me also point out that a working group has been set up in the Serbian Ministry of Justice to prepare a draft law on cooperation with the ICC.

As regards internal justice capabilities, the District Court of Belgrade and its War Crimes Chamber, as well as the Office of the Prosecutor for War Crimes of that Court, have proven their professional and technical ability to process the most complex cases in line with prevailing international standards of justice. Furthermore, the Belgrade District Court has expressed its readiness to contribute to the establishment of a database of the International Criminal Court that would contain all national judicial decisions and cases pertaining to the substance of international criminal law, such as crimes of genocide, crimes against humanity and war crimes.

My country supports the further strengthening of the institutional capacity and activities of the International Criminal Court and stresses the necessity for full and unconditional cooperation by all States and international organizations. We believe that the only way to eradicate impunity is through universal acceptance of the Rome Statute and active advocacy of its aims.

Mr. Park Hee-kwon (Republic of Korea): I would like to begin by thanking the President of the International Criminal Court (ICC), Judge Philippe Kirsch, for his presentation of the Court's report (see A/62/314) to the General Assembly.

On 1 October, Japan became the 105th State party to the ICC Statute, marking an important step on the road towards universal ratification of the Rome Statute. This is a goal that the Republic of Korea strongly supports. It is our belief that there must be a seamless web of justice throughout the world.

Currently, however, there are only 13 States in Asia that are parties to the Rome Statute. My delegation is eager to see more Asian States become parties to the Statute as soon as possible. Asian States should also become partners in efforts to establish international criminal justice, which will serve the interests of regional peace and security. We hope that the Court, as well as States parties, will provide assistance to Asian States in order to enable them to prepare for accession to the Rome Statute. The Republic of Korea will do its part by engaging in outreach and advocacy efforts to encourage more Asian States to join the ICC.

My delegation is pleased to note that the ICC is now a fully functional judicial institution. The Prosecutor of the Court is continuing to investigate the situations in Uganda, the Democratic Republic of the Congo and Darfur, the Sudan; and judicial proceedings are taking place in each of those situations. Additionally, the Prosecutor decided to open an investigation into the situation in the Central African Republic in May of this year. As for the Democratic Republic of the Congo, the Court confirmed charges of war crimes against Mr. Thomas Lubanga Dyilo, and his case was referred to trial.

Such progress will not only bring to justice perpetrators of heinous crimes, but it will also serve as a deterrent to future atrocities. The success of the Court will send a strong message to the international community that there will be no impunity for those who would commit crimes against humanity, genocide and war crimes.

How the ICC handles these cases will be an important determinant of the Court's future and of whether it will be embraced by the entire membership of the United Nations. To ensure the best possible performance by the Court, States should provide it with the financial, logistical and political-legal support it needs to perform its work, thus enabling it to realize the rule of law and end impunity for crimes against humanity, genocide and war crimes. States parties must also ensure that assessed contributions are paid in full and on time. Voluntary contributions are encouraged as an important source of revenue.

In terms of the Court's functioning, it is important to note that the ICC does not have its own enforcement arm. The Court needs the assistance and cooperation of States to apprehend indictees, collect evidence and execute its sentences. It is, thus, critically important that the Court receive the full cooperation of States, the relevant regional organizations and United

Nations operations. In this regard, my delegation commends the Government of the Democratic Republic of the Congo for its surrender of Mr. Germain Katanga to the Court on 18 October of this year. I am also pleased to announce that the Republic of Korea has completed its domestic legal procedures for the Agreement on Privileges and Immunities of the International Criminal Court and became a State party to the Agreement as of November 2005.

The Relationship Agreement between the United Nations and the ICC provides many avenues for mutually beneficial cooperative efforts to establish the rule of law and end impunity. Particularly important areas of cooperation in the field are communications, transportation, logistics, and security, including the protection of victims, witnesses and investigators, and providing access to suspects and enabling the collection of evidence and documents. Each of theses areas requires the cooperation and support of the United Nations. Information-sharing between the United Nations and the Court is essential, both at Headquarters and in the field. To facilitate cooperation between the United Nations and the ICC, my delegation strongly supported the establishment of a liaison office for the Court at the United Nations in New York and supports the endowment of adequate resources for its effective functioning.

We also urge the continued participation of States in the Special Working Group on the Crime of Aggression. It is important that States actively participate in this important discussion on the definition of the crime of aggression, including the conditions under which the ICC would exercise its jurisdiction. My delegation looks forward to further progress on this issue in coming years.

My delegation welcomes the increasing trust of the international community in the independence, fairness, impartiality and effectiveness of the ICC. That trust was demonstrated when the situations in Uganda, the Democratic Republic of the Congo and the Central African Republic were referred to the Court by the States themselves in 2005. The first referral to the Court by the Security Council, of the situation in Darfur, the Sudan, is strong testimony that peace and justice, often misunderstood to be mutually exclusive, can go hand in hand.

With these positive developments in mind, the Republic of Korea once again reaffirms its unswerving commitment to support the ICC in bringing about its noble goals.

Mr. Al-Allaf (Jordan) (*spoke in Arabic*): Allow me at the outset to welcome Judge Philippe Kirsch, President of the International Criminal Court (ICC), and to thank him for the third annual report of the Court (see A/62/314) submitted to the General Assembly in accordance with the Relationship Agreement between the United Nations and the Court. Jordan welcomes the report, which covers the major developments in the Court's activities during the period from 1 August 2006 to 1 August 2007, and which recounts the continued interaction and cooperation between the United Nations and the Court in the service of the common objectives of these two international entities. As seen in the report, the ICC is a major pillar in promoting international justice and in the maintenance of international peace and security and in upholding the rule of law.

The work of the Court and its success in realizing its objectives depend on constructive cooperation and continued support by States and by the United Nations and its organs. In this regard, Jordan especially welcomes the cooperation provided by the United Nations to the Court, as described in the report.

Jordan emphasizes the importance of the plan of action adopted in 2006 by the Assembly of States Parties to the Rome Statute to achieve universality and full implementation of the Statute, in view of its importance in ending impunity for perpetrators of the most heinous crimes and in ensuring full and permanent respect for criminal justice and international humanitarian law.

Jordan also emphasizes the importance of full and comprehensive preparation by States for the Rome Statute review conference scheduled for early 2010, so as to ensure that the necessary amendments are introduced and that a definition of the crime of aggression is included.

Finally, Jordan welcomes the Court's signature of the Headquarters Agreement with the host State, the Netherlands. It also welcomes the deposit by the Comoros and Chad of their instruments of ratification of the Rome Statute with the Secretary-General, and the deposit by Japan and Saint Kitts and Nevis of their instruments of accession, as well as the fact that Montenegro has informed the Secretary-General that it

had succeeded to the Statute. These events contribute to the universality of the Court.

Mr. Stemmet (South Africa): Allow me to express the appreciation of my delegation to the President of the International Criminal Court (ICC), His Excellency Judge Philippe Kirsch, for his statement in introducing the report of the International Criminal Court (see A/62/314) this morning.

The South African Government is a committed supporter of the ICC. My Government was among the first to sign the Rome Statute in 1998, and the South African parliament ratified the Statute of the International Criminal Court and adopted national legislation to enable cooperation with the Court in 2002. We see the International Criminal Court as a central element in ending impunity for international crimes and in establishing conditions under which justice can be maintained.

We commend the Court for the work it has engaged in since its inception and for the role it plays in deterring the further commission of international crimes. We take note of the cases currently before the Court and also have taken note of the decision of the Court with regard to the role of victims, in particular the measures the Court is taking to ensure wider access to victims during all stages of a trial.

We are acutely aware of the challenges facing the Prosecutor, arising primarily from the fact that the Court does not have its own police or army to effect its warrants of arrest and therefore depends entirely on the cooperation of States. This dependency of the Court upon States places a responsibility on States committed to the principle of justice to individually and collectively cooperate with the Court, be it within the context of regional organizations such as African Union and the League of Arab States or in a larger family of nations such as the United Nations.

We have taken note of the concern raised by the President of the International Criminal Court at the lack of implementation of the six arrest warrants issued by the Court, some as far back as 2005. The lack of implementation of these arrest warrants illustrates the challenges facing the system of international criminal justice, which as a system requires the Court and States to work together. The Court has played its part by issuing the arrest warrants; now it is up to States to play their part by implementing them. Our hope is that all States of goodwill that wish to put an end to impunity will cooperate with the Court by giving effect to the Court's decisions.

Mr. Hernández García (Mexico) (*spoke in Spanish*): The delegation of Mexico wishes to express its gratitude to the President of the International Criminal Court (ICC), Judge Philippe Kirsch, for his introduction of the Court's third report to the General Assembly (see A/62/314) in conformity with Relationship Agreement between the United Nations and the Court.

The universality of the Rome Statute is a common goal necessary to achieve the aims of international justice to which we aspired by establishing the International Criminal Court. In this regard, the Mexican Government welcomes Japan's recent accession to the Rome Statute, which raises the number of States parties to 105.

On 29 January 2004, a State party, Uganda, referred the first situation to the Court. Five months later, as a result of the second referral of a situation to the Court by a State party, the Prosecutor announced the first investigation into the situation in the Democratic Republic of the Congo, which led to the case against Thomas Lubanga Dyilo, whose trial is about to begin. We also note with interest the recent arrest of Mr. Germain Katanga. The Mexican delegation welcomes the birth of the judicial system established in the Rome Statute three and a half years ago as an important achievement, but also remains cognizant of the challenges which the Court is facing today in carrying out its mandate.

Allow me to address some of my Government's views concerning the work of the Court in the context of our wish to have a transparent, swift and efficient model of justice. In terms of transparency, the report presented today (A/62/314) reflects the complexity of the Court's work in the field, in particular as it relates to its perception by societies affected by armed conflicts, and to the persistent insecurity faced by its personnel.

For the Mexican Government, it is crucial for the Court to expand its outreach activities in a creative manner, so that it may come closer to the members of the affected communities and to reach those who are still sceptical or doubtful about the Court's work.

A fundamental part of the Court's mandate relates to the victims' rights to participate in the different

stages of the judicial process. Mexico considers that this right contained in the Statute is also a way to ensure trust and transparency, and should be supported especially. In this respect, the work of the Court is deserving of admiration.

With respect to swift justice, my Government considers that the Rome Statute contains the minimum necessary tools for the Court to meet the principle of "justice without delay". In this sense, Mexico notes that in the four situations submitted to the Court, it has taken between five and six months for investigations to begin. Likewise, we note that in the three cases in which there have been arrest warrants, namely Uganda, the Democratic Republic of the Congo and the Sudan, these were issued on average one year after the referral of each corresponding case. This period of time is acceptable and consistent with the nature of the type of investigations that the Court has to undertake.

Nevertheless, we note with great concern that, with the exception of the Lubanga Dyilo case and the recent surrender of Mr. Germain Katanga, both related to the case of the Democratic Republic of the Congo, the arrest warrants in the cases of Uganda and the Sudan have not been executed. This situation is no longer entirely within the Court's competence, and this cannot continue if we aim to achieve a judicial model by which prompt justice is offered.

It is the responsibility of States and international and regional organizations to urgently adopt the necessary measures to cooperate with the Court in its work — in this case, particularly by detaining and surrendering the alleged perpetrators of crimes. We consider that the United Nations has basic tools that can be made available to the Court. Indeed, the Relationship Agreement offers the legal basis for this cooperation. It is necessary and urgent for the General Assembly, the Security Council and the Secretariat to act within the framework of their capacities to assist the Court in discharging its mandate.

Allow me to recall what the preamble to the Statute clearly recognizes — putting an end to impunity is a necessary precondition to the preventive role created under this Statute. Without justice there is no long-lasting process of prevention, but without trials there is no opportunity to achieve justice. Mexico expresses its concern that the absence of cooperation in this respect may affect the preventive role of the Court. That is why we call upon the actors concerned not to defer their actions and to bring alleged perpetrators to justice.

In this context, my delegation is extremely worried about the fact that the situation that has prevailed for more than four years now in Darfur is still in a spiral of violence, generating one of the worst humanitarian crises of this century and exceeding the boundaries of the mandate of the International Criminal Court. In addition to more than 200,000 civilian deaths, there are also thousands of refugees and internally displaced persons. Moreover, dozens of humanitarian workers have been injured or killed, often intentionally, thereby impeding the delivery of urgent humanitarian assistance.

We strongly condemn the attacks on humanitarian workers of the United Nations and associated personnel, and we appeal for cessation of these criminal acts that are prohibited under international law.

The cooperation of the Sudanese Government is key in addressing one of the multiple facets of the complex emergency in that country, which is related to the fight against impunity and the rule of law. Those who have committed or ordered the commission of the crimes being investigated by the Court must be detained and brought to justice, regardless of their status, official position or rank. States have the obligation to ensure compliance with this objective, for today there is no room for impunity under the Rome Statute.

With respect to financial efficiency, Mexico closely follows the financial developments pertaining to the Court. We believe that the Court has an enormous responsibility towards States parties to the Statute for the good management of its financial resources under the principle of "one Court". The Court has to be a model of international administration. To that end, it can benefit from the experience of other international organizations in their efforts to be cost effective. My delegation will actively contribute to the consideration of the budget to be undertaken by the next Assembly of States Parties.

The establishment of the International Criminal Court, through the adoption of the Rome Statute in 1998, marked a turning point in the way in which international justice is conceived. It now behoves us to work together to maintain its validity and efficiency. Mexico pledges its support to the Court in its task.

Mr. Muburi-Muita (Kenya): My delegation takes the opportunity to thank Judge Philippe Kirsch, President of the International Criminal Court (ICC), for his leadership and for his comprehensive report on the activities of the Court during the past year (A/62/314). I would like to assure him of our support in the Court's quest to effectively carry out its duties.

The entry into force of the Rome Statute ushered in a new era in the administration of international criminal justice. The ICC was founded to put an end to impunity, through prevention of the most serious international crimes and the guarantee of lasting respect for the rule of law. Needless to say, this is the very basis on which the United Nations was founded more than 60 years ago. The presence of impunity not only encourages the recurrence of abuses, but also strips human rights and humanitarian law of their deterrent effect. The Court provides an enforcement mechanism for international criminal law, the legitimacy of which would be placed in jeopardy without the existence of such a mechanism.

The success of the ICC depends largely on the widespread ratification of the Rome Statute and States Parties' compliance with their obligations under the treaty. In this regard, I reiterate Kenya's commitment to render support to the work of the ICC in upholding its objectives. Kenya ratified the Rome Statute in March 2005 and is on course with the internal procedures for its domestication.

Kenya is gratified to note the progress in the Court's infrastructure and operations, as demonstrated through its growth and involvement in the referrals before it. My delegation commends the efforts of the Court in monitoring the overall situation in the Democratic Republic of the Congo and gathering information on the activities of armed groups in that territory. We also recognize the continued efforts to raise the level of awareness and understanding about the Court's operations globally.

It is evident that the Court's cooperative arrangements with the United Nations have been very instrumental in the success of the Court's activities in all the situations under investigation by the Court. We applaud this approach by the Court and urge strengthened and enhanced cooperation with the United Nations, as provided under the Relationship Agreement.

The movement towards the universality of the Court is clearly visible from the manner in which its establishment has been welcomed by several countries, as evidenced by the number of ratifications to the Statute and the many visits by dignitaries from States not party to the Rome treaty. The accession to the Agreement on the Privileges and Immunities of the Court on 29 January 2007 by Ukraine, which is not a State Party to the treaty, underscores the global nature and support for the ICC.

To maintain this momentum, the support of the international community remains critical. We, therefore, urge the Court to intensify its efforts to conclude negotiations on cooperative arrangements with States Parties, regional organizations and other actors in all regions, regardless of their conflict situation. This would promote and enhance the dialogue that is necessary to realize the plan of action for achieving universality and full implementation of the Rome Statute.

Given that the operations of the ICC are in harmony with the principles enshrined in the Charter of the United Nations, the Court's work contributes to the maintenance of international peace and security. For this reason, my delegation urges States to uphold the model law they have helped establish, by enforcing arrest warrants issued by the Court. This call should transcend political considerations in order to help preserve the Court's independence and integrity.

In connection with the aforementioned, the Rome Statute affords States the opportunity to deal with cases of human rights violations under domestic law and allows the ICC to assume jurisdiction only when affected States are either unable or unwilling to act. This principle of complementarity is a positive development in the quest to promote and protect human rights.

By way of conclusion, I wish to say that respect for the law is the only guarantee of lasting peace. In this regard, Kenya supports and looks forward to the early conclusion of the deliberation on the definition and elements of the crime of aggression.

Mr. Riofrio (Ecuador) (*spoke in Spanish*): My delegation wishes to thank the President of the International Criminal Court (ICC) for having introduced the third report of the Court to this Assembly.

Allow me to begin by stating that the full operational capacity of the Court and the constant and sustained work undertaken by it in four countries, as well as its presence in 25 others, have demonstrated its suitability as well as its importance and the global nature of its work. Perhaps during the past year the presence of the Court has been more noticeable, and its work is beginning to be better understood.

The international community has witnessed an unprecedented event in history — the participation of victims in a hearing in their own right, and not as witnesses. In this sense, it is worth stressing the importance of the Court's care to provide security to victims, witnesses and their families, putting their protection ahead of its own judicial responsibilities. These measures have brought us closer to the full recognition of the individual as a subject of international law and to the need to place people at the centre of the policies and actions of States, international organizations and civil society.

Even though the Court has made progress on issues such as cooperation with States in order to facilitate preventive measures and the protection of information, it is worrisome that agreements on witness protection and relocation have not grown in proportion to the number of protected persons. Furthermore, it continues to be essential to strengthen mechanisms leading to the execution of arrest warrants and to reach agreements on carrying out sentences.

My delegation wishes to repeat its call for commitments by States to strengthen their cooperation with the Court and to find ways of making the Court more effective. In that connection, Ecuador is interested in learning of proposals relating to the specific cooperation required to ensure the strengthening of the Court.

Ecuador wishes to reaffirm its belief that the fight against impunity, for the rule of law and respect for human rights strongly contribute to strengthening international peace and security. My country has taken several measures to promote legislative reform, so as to bring about the full implementation of the Rome Statute and is currently working on a process of judicial reform that will focus in particular on criminal matters.

Ecuador is now experiencing an interesting moment of political and institutional change that will lead to the constitution of a national assembly that will reform the political Constitution of the State. A mainstay of this reform is to place individuals at the centre of the actions of the State and respect for human rights in its broadest and unrestricted sense.

The constitutional reform will allow the extension of the criminal reform under way and the finalization of a bill on crimes against humanity, which will define and categorize those crimes under the Rome Statute, as well as norms to observe the principle of complementarity and comply with obligations to cooperate with the International Criminal Court.

I wish to congratulate the Governments of Saint Kitts and Nevis and Japan for their decision to ratify the Rome Statute, as well as to commend Montenegro for having become a Party to it by succession.

It is vital to continue working for the universal adherence to the Rome Statute and its full implementation. Ecuador wishes to underscore the importance of strengthening the dialogue with all States and international organizations.

My country considers it important to continue striving to promote the Court in States that have not yet ratified the Statute, and we hope that visits will be made to States Parties that need to continue to count on the support of the international community to achieve the implementation of the Rome Statute.

Mr. Shinyo (Japan): It is my great pleasure and honour to speak today on behalf of the Government of Japan on the agenda of the International Criminal Court (ICC) at this Assembly. My delegation would like to express its appreciation to President Philippe Kirsch for his comprehensive report on the current situation of the ICC and the Court's achievements over the past year.

I am especially privileged to address the General Assembly this year, as this statement is the first intervention by the Government of Japan under this agenda item as a full-fledged State party to the Rome Statute. I would like to report to all Member States that Japan deposited its instrument of accession to the Rome Statute this year on the highly symbolic day of 17 July, the World Day for International Justice, and has become its 105th State party as of 1 October. In that connection, I would like to express our gratitude for the reference made by the delegate of Ecuador, who spoke just before me.

The internal process of ratification for Japan was not without its difficulties. President Kirsch, who visited Japan last December, had productive talks and exchanges of views with Japanese political leaders, which surely provided a timely impetus to accelerate the process of Japan's accession to the ICC.

I would like to pay high tribute to the efforts of the ICC to effectively address the four situations in Africa currently under investigation. Japan welcomes the most recent development in the Democratic Republic of the Congo, that is, the second arrest and surrender of a perpetrator. I believe that the devoted work of the ICC in Africa will certainly contribute to peace and stability on the continent and thus lead to the realization of a more vibrant Africa. Japan attaches the utmost importance to the issues of Africa in its diplomacy and will be hosting the fourth Tokyo International Conference on African Development (TICAD IV) in Yokohama next May. From this broader perspective, Japan will also continue to pay close attention to the development of the ICC's work regarding the situation in Africa.

As a new member of the ICC, Japan wishes to contribute to the maximum extent possible to the development of the Court. From the financial perspective, Japan now becomes the largest contributor to the Court, providing 22 per cent of its total budget. The Government of Japan will discharge its obligation faithfully while seeking intensively, together with the ICC and other States parties, for the most efficient ways to manage the work of the Court both in The Hague and in the field.

From the viewpoint of human resources, Japan intends to send as many highly skilled Japanese as possible to the ICC to serve as its judges and staff. Currently, the Asian region, including Japan, seems to be seriously underrepresented in the ICC. My delegation expects the Court to take all necessary measures to address this issue and hopes to see significant progress in the coming year.

Japan hopes that the Court will continue to work diligently towards the eradication of the culture of impunity and to further consolidate its status as the only permanent international criminal court in the world.

Mr. Butagira (Uganda): Allow me first to thank the President of the International Criminal Court (ICC), Judge Philippe Kirsch, for the report presented to the General Assembly earlier today.

Uganda holds in high regard the work of the ICC. My delegation has full confidence in the Court. Without such confidence, Uganda could not have made referrals to the Prosecutor to commence investigations into the situation of the Lord's Resistance Army (LRA). Uganda is determined to put an end to impunity for the perpetrators of grave crimes and we shall do everything within our power and means to bring them to account.

We note with concern the statement of the President of the Court that "a number of direct requests for cooperation have not yet been fulfilled" (*supra*). Particular emphasis was put on failure to execute the outstanding warrants.

For purposes of clarification, I would like to state that none of the indicted individuals is on Uganda's territory. Moreover, the peace talks, which are monitored by, among others, Mr. Joachim Chissano, the Special Envoy of the Secretary-General to LRA-affected areas, are being held outside Uganda. Therefore, it should not be understood that Uganda has control over the indictees and is refusing to hand them over for trial.

With regard to cooperation, Uganda has benefited greatly from the operations of the Court. Indeed, it is significantly due to the warrants of the Prosecutor that peace talks are taking place in Juba between the Government of Uganda and the LRA and that peace now prevails in northern Uganda. For that we are grateful, and we will continue to cooperate with the Prosecutor, indeed with the whole Court, in the furtherance of its mandate.

Further testimony of Uganda's cooperation may be observed from the fact that my Government has not withheld any evidence, including raw data, from the Office of the Prosecutor. Investigators have had free access to the witnesses, without interference from Government officials.

In his presentation earlier today, Judge Kirsch quoted from an expert report of the International Crisis Group, stating that "the ICC investigation of the Lord's Resistance Army has been crucial for promoting peace, improving security in northern Uganda and embedding international accountability standards into negotiations" (*supra*).

Uganda is proud to be associated with the work of the ICC. It is for this reason that my country was the first to offer to host the review conference due to take place in 2009.

The Acting President (*spoke in Spanish*): We have heard the last speaker in the debate on this item. However, one representative has requested the exercise of his right of reply. I should like to remind Members of the General Assembly that statements in the exercise of the right of reply are to be limited to ten minutes for the first statement and five minutes for the second. Delegations are to speak from their seats.

Mr. Abdelsalam (Sudan) (*spoke in Arabic*): Some delegations made statements under this agenda item about the need of the Government of Sudan to commit itself to cooperating with the International Criminal Court (ICC), in accordance with Security Council resolution 1593 (2005). While my delegation welcomes and commends these countries for their boldness and their desire to see international justice implemented, we call upon them to possess the same courage and draw attention to the content of the aforementioned resolution and to its exemption of a Security Council member from the jurisdiction of the Court. What kind of justice are they talking about? Is it that which is happening in Darfur while it closes its unjust eyes to daily violations that are shameful and are known and witnessed by the world everyday? Justice is indivisible, and so is courage in dealing with such cases.

Resolution 1593 (2005) is shameful, not only because of this defective exception, but also because it is political in the first place and aims only at settling political accounts according to an agenda known to one and all. The Sudan is not a member of the Rome Statute that established the Court, and the Court has, therefore, no jurisdiction to try Sudanese nationals. The national Sudanese judiciary, which is independent and neutral, is capable of trying all those proven guilty.

In conclusion, we ask people to stop shedding crocodile tears and to encourage an all-inclusive peaceful settlement in the country.

The Acting President (*spoke in Spanish*): The General Assembly has listened to the delegation of the Sudan in the exercise of its right of reply. The General Assembly has thus concluded this stage of its consideration of agenda item 76.

The meeting rose at 5.20 p.m.